



**Making the Case:**  
**Legal Language to Support Students**  
*Issue #2: Extra-Curricular Activities*

This series describes real students’ situations, and provides tips for how to make the legal case for providing the supports that the student needs.

**THE STUDENT**

The parent was driving her son an hour to football practice. Events in the summer caused the family to lose their home. They had been staying with a relative. Then the relative lost her home, and they didn’t know where they were going to sleep. The fallback plan was the car. But she still took him to football practice. It was the anchor of their life at the moment. As their lives swirled around them, dire homelessness, loss of income, loss of job, evictions, hunger, fear of the future...football was the anchor.

Football is the anchor, but how can he continue to attend the same school as homelessness moves them from place to place? How can he be eligible to play football if he’s not residing in the district? How can he pay for football equipment and fees? How will he get to school, to practice, and to games? Where will this family live?

**MAKING THE CASE**

What is some legal language to help the liaison support this student?

<b>The Support</b>	<b>Legal Language to Make the Case</b>	<b>Legal Citation 42 US Code section 11432...</b>
Identifying this student as McKinney-Vento eligible initially	<ul style="list-style-type: none"> <li>ESSA has put unprecedented emphasis on identifying all our McKinney-Vento students. The family lost their home. They are eligible for McKinney-Vento services, whether sharing the housing of others due to loss of housing, sleeping in their car, staying in a motel, or staying in another homeless situation.</li> </ul>	(d)(5) (g)(1)(I) (g)(6)(A)(ix)  11434a(2)
Keeping the student in the same school	<ul style="list-style-type: none"> <li>ESSA placed new emphasis on school stability, requiring local educational agencies (LEAs) to presume that keeping students in their schools of origin is in their best interest, except when doing so is contrary to the request of a parent, guardian or unaccompanied youth.</li> </ul>	(g)(3)(B)(i)

	<ul style="list-style-type: none"> <li>The LEA must consider student-centered factors related to the student’s best interest and give priority to the request of the parent, guardian or unaccompanied youth.</li> </ul>	(g)(3)(B)(ii)
Providing transportation to the school of origin	<ul style="list-style-type: none"> <li>LEAs must ensure transportation is provided to and from the school of origin, at the request of the parent or guardian (or the liaison for unaccompanied youth).</li> </ul>	(g)(1)(J)(iii)
Playing football while not a “resident” of the district.	<ul style="list-style-type: none"> <li>ESSA requires states to have procedures to ensure McKinney-Vento students who meet the relevant eligibility criteria (such as academic standards and skill level) do not face barriers to accessing extracurricular activities.</li> <li>The McKinney-Vento Act applies to state athletic associations.</li> <li>States and LEAs must review and revise policies to remove barriers to enrollment (which includes full participation) and retention in school. Football is an important strategy to keep this student engaged in school.</li> </ul>	(g)(1)(F)(iii)  US Supreme Court. <u>Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass’n.</u> , 531 U.S. 288 (2001).  (g)(1)(I)
Providing gas cards for football practice.	<ul style="list-style-type: none"> <li>To the extent that lack of access to transportation is a barrier to extracurricular activities, LEAs are required to provide transportation to and from extracurricular activities.</li> <li>This is a perfect use for the Title IA homeless set-aside, which ESSA now requires every LEA receiving Title I funds to do.</li> </ul>	US ED Guidance J-11  20 USC 6313(c)(3) 20 USC 6313(c)(3)(C)(ii)
Paying for football equipment and fees	<ul style="list-style-type: none"> <li>ESSA requires states to have procedures to ensure McKinney-Vento students who meet the relevant eligibility criteria (such as academic standards and skill level) do not face barriers to accessing extracurricular activities.</li> <li>States and LEAs must review and revise policies to remove barriers to enrollment (which includes full participation) and retention in school. Football is an important strategy to keep this student engaged in school.</li> <li>Again the Title IA homeless set-aside can assist. The LEA Title I plan has to describe how the LEA will serve McKinney-Vento students with the homeless set-aside. Especially since this student is in a non-Title I building, the set-aside should be reaching him. The LEA could use set-aside funds for this school activity, to keep this student participating and attending.</li> </ul>	(g)(1)(F)(iii)  (g)(1)(I)  20 USC 6312(b)(6), 6313(c)(3), 6313(c)(3)(C)(ii)
Giving the liaison the time to build relationships with local housing agencies.	<ul style="list-style-type: none"> <li>ESSA requires that liaisons must be “able to carry out the duties described in paragraph (6)(A).” ESSA also added duties to the liaison’s job in (6)(A). Therefore, the liaison must have the time and capacity to perform the specified duties.</li> <li>“LEAs should allocate sufficient time for... liaisons to do their jobs effectively and should support them in fulfilling their duties as outlined in the law...”</li> <li>One of the new liaison duties is to provide referrals to housing agencies.</li> </ul>	(g)(1)(J)(ii)  (g)(6)(A)  US ED Guidance p. 15  (g)(6)(A)(iv)

## **EPILOGUE (from the McKinney-Vento Liaison)**

This parent became aware of my program through public notices in the community. I was able to make a referral to get her into a motel for the night. I helped with a lot of things they needed and then handed her gas cards, paid for with Title IA set-aside funds. “This is to help with gas for football practice,” I said. She was stunned. I was helping her keep the anchor in place, making sure it didn’t drift.

The parent exclaimed, “You don’t know how much this is going to help. I have been using every penny for gas to make sure I can get him here.” It had become so much bigger than football practice. It brought them back to this county and this school. It is the one stable thing in their lives at the moment. It is their tie to this school and to hope.

I am working with the family and a housing agency to get them into emergency housing. I have a relationship with the housing agency because of ongoing involvement in the Continuum of Care. I will get the parent passes to football games so she can see her son play. I might go sit with her. I can’t wait to see him play myself.